

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 739

Introduced by Senator Pavley

February 27, 2015

An act *to amend Sections 47605 and 47605.1 of, and to add and repeal Section 47604.34 of* of, the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 739, as amended, Pavley. Charter schools: sited outside boundaries: ~~report~~. *report: prohibition.*

Existing law authorizes a charter school that is unable to locate within the jurisdiction or geographic boundaries of the chartering school district to establish one site outside the boundaries of the school district, but within the county in which that school district is located, if the school district where the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools and the Superintendent of Public Instruction are notified of the location of the charter school before it commences operations, and either the charter school has attempted to locate a single site or facility to house the entire program, but such a site or facility is unavailable in the area in which the *charter* school chooses to locate or the site is needed for temporary use during a construction or expansion project.

This bill would authorize the Superintendent to study and report to the Legislature by December 31, 2016, the number of charter schools that are sited outside the boundaries of the chartering school district. The bill would authorize the report to include specified findings and recommendations.

This bill would prohibit the governing board of a school district from authorizing new charter schools to locate outside the boundaries of the school district if the school district is assigned a negative certification, as specified. The bill would also make conforming changes, correct references, and make various nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 47604.34 is added to the Education Code,
2 to read:
3 47604.34. (a) The Superintendent may study and report to the
4 Legislature by December 31, 2016, the number of charter schools
5 that are sited outside the boundaries of the chartering school district
6 pursuant to paragraph (5) of subdivision (a) of Section 47605.
7 (1) The Superintendent's report may make findings, including,
8 but not necessarily limited to, all of the following:
9 (A) The number and location of charter schools sited outside
10 the boundaries of the chartering school district.
11 (B) The reason pursuant to subparagraphs (A) and (B) of
12 paragraph (5) of subdivision (a) of Section 47605 that a charter
13 school is located outside the boundaries of the chartering school
14 district.
15 (C) Whether the superintendent of the school district where the
16 charter school is located was notified in advance of the charter
17 petition approval pursuant to paragraph (5) of subdivision (a) of
18 Section 47605.
19 (2) The Superintendent's report may make recommendations,
20 including, but not necessarily limited to, the authority of state or
21 local entities to enforce charter law.
22 (b) (1) A report submitted pursuant to subdivision (a) shall be
23 submitted in compliance with Section 9795 of the Government
24 Code.
25 (2) Pursuant to Section 10231.5 of the Government Code, this
26 section is repealed on December 31, 2020.
27 SEC. 2. Section 47605 of the Education Code is amended to
28 read:
29 47605. (a) (1) Except as set forth in paragraph (2), a petition
30 for the establishment of a charter school within a school district

1 may be circulated by one or more persons seeking to establish the
2 charter school. A petition for the establishment of a charter school
3 shall identify a single charter school that will operate within the
4 geographic boundaries of that school district. A charter school
5 may propose to operate at multiple sites within the school district,
6 as long as each location is identified in the charter school petition.

7 The petition may be submitted to the governing board of the school
8 district for review after either of the following conditions is met:

9 (A) The petition is signed by a number of parents or legal
10 guardians of pupils that is equivalent to at least one-half of the
11 number of pupils that the charter school estimates will enroll in
12 the *charter* school for its first year of operation.

13 (B) The petition is signed by a number of teachers that is
14 equivalent to at least one-half of the number of teachers that the
15 charter school estimates will be employed at the *charter* school
16 during its first year of operation.

17 (2) A petition that proposes to convert an existing public school
18 to a charter school that would not be eligible for a loan pursuant
19 to subdivision ~~(b)~~ (c) of Section 41365 may be circulated by one
20 or more persons seeking to establish the charter school. The petition
21 may be submitted to the governing board of the school district for
22 review after the petition is signed by not less than 50 percent of
23 the permanent status teachers currently employed at the public
24 school to be converted.

25 (3) A petition shall include a prominent statement that a
26 signature on the petition means that the parent or legal guardian
27 is meaningfully interested in having his or her child or ward attend
28 the charter school, or in the case of a teacher's signature, means
29 that the teacher is meaningfully interested in teaching at the charter
30 school. The proposed charter shall be attached to the petition.

31 (4) After receiving approval of its petition, a charter school that
32 proposes to establish operations at one or more additional sites
33 shall request a material revision to its charter and shall notify the
34 authority that granted its charter of those additional locations. The
35 authority that granted its charter shall consider whether to approve
36 those additional locations at an open, public meeting. If the
37 additional locations are approved, ~~they~~ *there* shall be a material
38 revision to the charter school's charter.

39 (5) (A) A charter school that is unable to locate within the
40 jurisdiction of the chartering school district may establish one site

1 outside the boundaries of the school district, but within the county
2 in which that school district is located, if the school district within
3 the jurisdiction of which the charter school proposes to operate is
4 notified in advance of the charter petition approval, the county
5 superintendent of schools and the Superintendent are notified of
6 the location of the charter school before it commences operations,
7 and either of the following circumstances exists:

8 ~~(A)~~

9 (i) The *charter* school has attempted to locate a single site or
10 facility to house the entire program, but a site or facility is
11 unavailable in the area in which the *charter* school chooses to
12 locate.

13 ~~(B)~~

14 (ii) The site is needed for temporary use during a construction
15 or expansion project.

16 (B) *Notwithstanding subparagraph (A), the governing board of*
17 *a school district shall not authorize new charter schools to locate*
18 *outside the boundaries of the school district if the school district*
19 *is assigned a negative certification pursuant to paragraph (1) of*
20 *subdivision (a) of Section 42131.*

21 (6) Commencing January 1, 2003, a petition to establish a charter
22 school ~~may~~ *shall* not be approved to serve pupils in a grade level
23 that is not served by the school district of the governing board
24 considering the petition, unless the petition proposes to serve pupils
25 in all of the grade levels served by that school district.

26 (b) No later than 30 days after receiving a petition, in accordance
27 with subdivision (a), the governing board of the school district
28 shall hold a public hearing on the provisions of the charter, at
29 which time the governing board of the school district shall consider
30 the level of support for the petition by teachers employed by the
31 *school* district, other employees of the *school* district, and parents.
32 Following review of the petition and the public hearing, the
33 governing board of the school district shall either grant or deny
34 the charter within 60 days of receipt of the petition, provided,
35 however, that the date may be extended by an additional 30 days
36 if both parties agree to the extension. In reviewing petitions for
37 the establishment of charter schools pursuant to this section, the
38 chartering authority shall be guided by the intent of the Legislature
39 that charter schools are and should become an integral part of the
40 California educational system and that *the* establishment of charter

1 schools should be encouraged. The governing board of the school
2 district shall grant a charter for the operation of a *charter* school
3 under this part if it is satisfied that granting the charter is consistent
4 with sound educational practice. The governing board of the school
5 district shall not deny a petition for the establishment of a charter
6 school unless it makes written factual findings, specific to the
7 particular petition, setting forth specific facts to support one or
8 more of the following findings:

9 (1) The charter school presents an unsound educational program
10 for the pupils to be enrolled in the charter school.

11 (2) The petitioners are demonstrably unlikely to successfully
12 implement the program set forth in the petition.

13 (3) The petition does not contain the number of signatures
14 required by subdivision (a).

15 (4) The petition does not contain an affirmation of each of the
16 conditions described in subdivision (d).

17 (5) The petition does not contain reasonably comprehensive
18 descriptions of all of the following:

19 (A) (i) A description of the educational program of the *charter*
20 school, designed, among other things, to identify those whom the
21 *charter* school is attempting to educate, what it means to be an
22 “educated person” in the 21st century, and how learning best
23 occurs. The goals identified in that program shall include the
24 objective of enabling pupils to become self-motivated, competent,
25 and lifelong learners.

26 (ii) A description, for the charter school, of annual goals, for
27 all pupils and for each subgroup of pupils identified pursuant to
28 Section 52052, to be achieved in the state priorities, as described
29 in subdivision (d) of Section 52060, that apply for the grade levels
30 served, or the nature of the program operated, by the charter school,
31 and specific annual actions to achieve those goals. A charter
32 petition may identify additional school priorities, the goals for the
33 school priorities, and the specific annual actions to achieve those
34 goals.

35 (iii) If the proposed *charter* school will serve high school pupils,
36 a description of the manner in which the charter school will inform
37 parents about the transferability of courses to other public high
38 schools and the eligibility of courses to meet college entrance
39 requirements. Courses offered by the charter school that are
40 accredited by the Western Association of Schools and Colleges

1 may be considered transferable and courses approved by the
2 University of California or the California State University as
3 creditable under the “A” to “G” admissions criteria may be
4 considered to meet college entrance requirements.

5 (B) The measurable pupil outcomes identified for use by the
6 charter school. “Pupil outcomes,” for purposes of this part, means
7 the extent to which all pupils of the *charter* school demonstrate
8 that they have attained the skills, knowledge, and attitudes specified
9 as goals in the *charter* school’s educational program. Pupil
10 outcomes shall include outcomes that address increases in pupil
11 academic achievement both schoolwide and for all groups of pupils
12 served by the charter school, as that term is defined in subparagraph
13 (B) of paragraph (3) of subdivision (a) of Section 47607. The pupil
14 outcomes shall align with the state priorities, as described in
15 subdivision (d) of Section 52060, that apply for the grade levels
16 served, or the nature of the program operated, by the charter school.

17 (C) The method by which pupil progress in meeting those pupil
18 outcomes is to be measured. To the extent practicable, the method
19 for measuring pupil outcomes for state priorities shall be consistent
20 with the way information is reported on a school accountability
21 report card.

22 (D) The governance structure of the *charter* school, including,
23 but not limited to, the process to be followed by the *charter* school
24 to ensure parental involvement.

25 (E) The qualifications to be met by individuals to be employed
26 by the *charter* school.

27 (F) The procedures that the *charter* school will follow to ensure
28 the health and safety of pupils and staff. These procedures shall
29 include the requirement that each employee of the *charter* school
30 furnish ~~the school~~ it with a criminal record summary as described
31 in Section 44237.

32 (G) The means by which the *charter* school will achieve a racial
33 and ethnic balance among its pupils that is reflective of the general
34 population residing within the territorial jurisdiction of the school
35 district to which the charter petition is submitted.

36 (H) Admission requirements, if applicable.

37 (I) The manner in which annual, independent financial audits
38 shall be conducted, which shall employ generally accepted
39 accounting principles, and the manner in which audit exceptions

1 and deficiencies shall be resolved to the satisfaction of the
2 chartering authority.

3 (J) The procedures by which pupils can be suspended or
4 expelled.

5 (K) The manner by which staff members of the charter schools
6 will be covered by the State Teachers' Retirement System, the
7 Public Employees' Retirement System, or federal social security.

8 (L) The public school attendance alternatives for pupils residing
9 within the school district who choose not to attend charter schools.

10 (M) A description of the rights of ~~any~~ *an* employee of the school
11 district upon leaving the employment of the school district to work
12 in a charter school, and of any rights of return to the school district
13 after employment at a charter school.

14 (N) The procedures to be followed by the charter school and
15 the entity granting the charter to resolve disputes relating to
16 provisions of the charter.

17 (O) A declaration *of* whether or not the charter school shall be
18 deemed the exclusive public school employer of the employees of
19 the charter school for purposes of Chapter 10.7 (commencing with
20 Section 3540) of Division 4 of Title 1 of the Government Code.

21 (P) A description of the procedures to be used if the charter
22 school closes. The procedures shall ensure a final audit of the
23 *charter* school to determine the disposition of all assets and
24 liabilities of the charter school, including plans for disposing of
25 any net assets and for the maintenance and transfer of pupil records.

26 (c) (1) Charter schools shall meet all statewide standards and
27 conduct the pupil assessments required pursuant to Sections 60605
28 and 60851 and any other statewide standards authorized in statute
29 or pupil assessments applicable to pupils in noncharter public
30 schools.

31 (2) Charter schools shall, on a regular basis, consult with their
32 parents, legal guardians, and teachers regarding the *charter* school's
33 educational programs.

34 (d) (1) In addition to any other requirement imposed under this
35 part, a charter school shall be nonsectarian in its programs,
36 admission policies, employment practices, and all other operations,
37 shall not charge tuition, and shall not discriminate against ~~any~~ *a*
38 pupil on the basis of the characteristics listed in Section 220. Except
39 as provided in paragraph (2), admission to a charter school shall
40 not be determined according to the place of residence of the pupil,

1 or of his or her parent or legal guardian, within this state, except
2 that an existing public school converting partially or entirely to a
3 charter school under this part shall adopt and maintain a policy
4 giving admission preference to pupils who reside within the former
5 attendance area of that public school.

6 (2) (A) A charter school shall admit all pupils who wish to
7 attend the *charter* school.

8 (B) If the number of pupils who wish to attend the charter school
9 exceeds the *charter* school's capacity, attendance, except for
10 existing pupils of the charter school, shall be determined by a
11 public random drawing. Preference shall be extended to pupils
12 currently attending the charter school and pupils who reside in the
13 *school* district except as provided for in Section 47614.5. Other
14 preferences may be permitted by the chartering authority on an
15 individual school basis and only if consistent with the law.

16 (C) In the event of a drawing, the chartering authority shall
17 make reasonable efforts to accommodate the growth of the charter
18 school and in no event shall take any action to impede the charter
19 school from expanding enrollment to meet pupil demand.

20 (3) If a pupil is expelled or leaves the charter school without
21 graduating or completing the school year for any reason, the charter
22 school shall notify the superintendent of the school district of the
23 pupil's last known address within 30 days, and shall, upon request,
24 provide that school district with a copy of the cumulative record
25 of the pupil, including a transcript of grades or report card, and
26 health information. This paragraph applies only to pupils subject
27 to compulsory full-time education pursuant to Section 48200.

28 (e) The governing board of a school district shall not require
29 ~~any~~ *an* employee of the school district to be employed in a charter
30 school.

31 (f) The governing board of a school district shall not require
32 ~~any~~ *a* pupil enrolled in the school district to attend a charter school.

33 (g) The governing board of a school district shall require that
34 the petitioner or petitioners provide information regarding the
35 proposed operation and potential effects of the *charter* school,
36 including, but not limited to, the facilities to be used by the *charter*
37 school, the manner in which administrative services of the *charter*
38 school are to be provided, and potential civil liability effects, if
39 any, upon the *charter* school and upon the school district. The
40 description of the facilities to be used by the charter school shall

1 specify where the *charter* school intends to locate. The petitioner
2 or petitioners *also* shall ~~also~~ be required to provide financial
3 statements that include a proposed first-year operational budget,
4 including startup costs, and cashflow and financial projections for
5 the first three years of operation.

6 (h) In reviewing petitions for the establishment of charter
7 schools within the school district, the governing board of the school
8 district shall give preference to petitions that demonstrate the
9 capability to provide comprehensive learning experiences to pupils
10 identified by the petitioner or petitioners as academically low
11 achieving pursuant to the standards established by the department
12 under Section 54032, as it read before July 19, 2006.

13 (i) Upon the approval of the petition by the governing board of
14 the school district, the petitioner or petitioners shall provide written
15 notice of that approval, including a copy of the petition, to the
16 applicable county superintendent of schools, the department, and
17 the state board.

18 (j) (1) If the governing board of a school district denies a
19 petition, the petitioner may elect to submit the petition for the
20 establishment of a charter school to the county board of education.
21 The county board of education shall review the petition pursuant
22 to subdivision (b). If the petitioner elects to submit a petition for
23 establishment of a charter school to the county board of education
24 and the county board of education denies the petition, the petitioner
25 may file a petition for establishment of a charter school with the
26 state board, and the state board may approve the petition, in
27 accordance with subdivision (b). A charter school that receives
28 approval of its petition from a county board of education or from
29 the state board on appeal shall be subject to the same requirements
30 concerning geographic location to which it would otherwise be
31 subject if it received approval from the entity to which it originally
32 submitted its petition. A charter petition that is submitted to either
33 a county board of education or to the state board shall meet all
34 otherwise applicable petition requirements, including the
35 identification of the proposed site or sites where the charter school
36 will operate.

37 (2) In assuming its role as a chartering agency, the state board
38 shall develop criteria to be used for the review and approval of
39 charter school petitions presented to the state board. The criteria
40 shall address all elements required for charter approval, as

1 identified in subdivision~~(b)~~ (b), and shall define “reasonably
2 comprehensive” *comprehensive*,” as used in paragraph (5) of
3 subdivision~~(b)~~ (b), in a way that is consistent with the intent of
4 this part. Upon satisfactory completion of the criteria, the state
5 board shall adopt the criteria on or before June 30, 2001.

6 (3) A charter school for which a charter is granted by either the
7 county board of education or the state board based on an appeal
8 pursuant to this subdivision shall qualify fully as a charter school
9 for all funding and other purposes of this part.

10 (4) If either the county board of education or the state board
11 fails to act on a petition within 120 days of receipt, the decision
12 of the governing board of the school district to deny ~~a~~ *the* petition
13 ~~shall, thereafter,~~ *shall* be subject to judicial review.

14 (5) The state board shall adopt regulations implementing this
15 subdivision.

16 (6) Upon the approval of the petition by the county board of
17 education, the petitioner or petitioners shall provide written notice
18 of that approval, including a copy of the ~~petition~~ *petition*, to the
19 department and the state board.

20 (k) (1) The state board may, by mutual agreement, designate
21 its supervisory and oversight responsibilities for a charter school
22 approved by the state board to any local educational agency in the
23 county in which the charter school is located or to the governing
24 board of the school district that first denied the petition.

25 (2) The designated local educational agency shall have all
26 monitoring and supervising authority of a chartering agency,
27 including, but not limited to, powers and duties set forth in Section
28 47607, except the power of revocation, which shall remain with
29 the state board.

30 (3) A charter school that is granted its charter through an appeal
31 to the state board and elects to seek renewal of its charter shall,
32 before expiration of the charter, submit its petition for renewal to
33 the governing board of the school district that initially denied the
34 charter. If the governing board of the school district denies the
35 *charter* school’s petition for renewal, the *charter* school may
36 petition the state board for renewal of its charter.

37 (l) Teachers in charter schools shall hold a Commission on
38 Teacher Credentialing certificate, permit, or other document
39 equivalent to that which a teacher in other public schools would
40 be required to hold. These documents shall be maintained on file

1 at the charter school and are subject to periodic inspection by the
2 chartering authority. It is the intent of the Legislature that charter
3 schools be given flexibility with regard to noncore, noncollege
4 preparatory courses.

5 (m) A charter school shall transmit a copy of its annual,
6 independent financial audit report for the preceding fiscal year, as
7 described in subparagraph (I) of paragraph (5) of subdivision (b),
8 to its chartering entity, the Controller, the county superintendent
9 of schools of the county in which the charter school is sited, unless
10 the county board of education of the county in which the charter
11 school is sited is the chartering entity, and the department by
12 December 15 of each year. This subdivision does not apply if the
13 audit of the charter school is encompassed in the audit of the
14 chartering entity pursuant to Section 41020.

15 *SEC. 3. Section 47605.1 of the Education Code is amended to*
16 *read:*

17 47605.1. (a) (1) Notwithstanding any other law, a charter
18 school that is granted a charter from the governing board of a
19 school district or county office of education after July 1, 2002, and
20 commences providing educational services to pupils on or after
21 July 1, 2002, shall locate in accordance with the geographic and
22 site limitations of this part.

23 (2) Notwithstanding any other law, a charter school that is
24 granted a charter by the state board after July 1, 2002, and
25 commences providing educational services to pupils on or after
26 July 1, 2002, based on the denial of a petition by the governing
27 board of a school district or county board of education, as described
28 in paragraphs (1) and (2) of subdivision (j) of Section 47605, may
29 locate only within the geographic boundaries of the chartering
30 entity that initially denied the petition for the charter.

31 (3) A charter school that receives approval of its charter from
32 a *the* governing board of a school district, a county office of
33 education, or the state board before July 1, 2002, but does not
34 commence operations until after January 1, 2003, shall be subject
35 to the geographic limitations of ~~the~~ *this* part, in accordance with
36 subdivision (e).

37 (b) Nothing in this section is intended to affect the admission
38 requirements contained in subdivision (d) of Section 47605.

39 (c) Notwithstanding any other law, a charter school may
40 establish a resource center, meeting space, or other satellite facility

1 located in a county adjacent to that in which the charter school is
2 authorized if the following conditions are met:

3 (1) The facility is used exclusively for the educational support
4 of pupils who are enrolled in nonclassroom-based independent
5 study of the charter school.

6 (2) The charter school provides its primary educational services
7 in, and a majority of the pupils it serves are residents of, the county
8 in which the *charter* school is authorized.

9 (d) *(1)* Notwithstanding subdivision (a) of *this section* or
10 subdivision (a) of Section 47605, a charter school that is unable
11 to locate within the geographic boundaries of the chartering school
12 district may establish one site outside the boundaries of the school
13 district, but within the county within which that school district is
14 located, if the school district where the charter school proposes to
15 operate is notified in advance of the charter petition approval, the
16 county superintendent of schools is notified of the location of the
17 charter school before it commences operations, and either of the
18 following circumstances exist:

19 ~~(1)~~

20 (A) The *charter* school has attempted to locate a single site or
21 facility to house the entire program but such a facility or site is
22 unavailable in the area in which the *charter* school chooses to
23 locate.

24 ~~(2)~~

25 (B) The site is needed for temporary use during a construction
26 or expansion project.

27 *(2) Notwithstanding paragraph (1), the governing board of a*
28 *school district shall not authorize new charter schools to locate*
29 *outside the boundaries of the school district if the school district*
30 *is assigned a negative certification pursuant to paragraph (1) of*
31 *subdivision (a) of Section 42131.*

32 (e) (1) For a charter school that was granted approval of its
33 charter before July 1, 2002, and provided educational services to
34 pupils before July 1, 2002, this section shall only apply to any new
35 educational services or schoolsites established or acquired by the
36 charter school on or after July 1, 2002.

37 (2) For a charter school that was granted approval of its charter
38 before July 1, 2002, but did not provide educational services to
39 pupils before July 1, 2002, this section shall only apply upon the
40 expiration of a charter that is in existence on January 1, 2003.

1 (3) Notwithstanding other implementation timelines in this
2 section, by June 30, 2005, or upon the expiration of a charter that
3 is in existence on January 1, 2003, whichever is later, all charter
4 schools shall be required to comply with this section for schoolsites
5 at which education services are provided to pupils before or after
6 July 1, 2002, regardless of whether the charter school initially
7 received approval of its charter school petition before July 1, 2002.
8 To achieve compliance with this section, a charter school shall be
9 required to receive approval of a charter petition in accordance
10 with this section and Section 47605.

11 (4) Nothing in this section is intended to affect the authority of
12 a governmental entity to revoke a charter that is granted on or
13 before the effective date of this section.

14 (f) A charter school that submits its petition directly to a county
15 board of education, as authorized by ~~Sections~~ *Section* 47605.5 or
16 47605.6, may establish charter school operations only within the
17 geographical boundaries of the county in which that county board
18 of education has jurisdiction.

19 (g) Notwithstanding any other law, the jurisdictional limitations
20 set forth in this section do not apply to a charter school that
21 provides instruction exclusively in partnership with any of the
22 following:

23 (1) The federal Workforce Investment Act of 1998 (29 U.S.C.
24 Sec. 2801 et seq.).

25 (2) Federally affiliated Youth Build programs.

26 (3) Federal job corps training or instruction provided pursuant
27 to a memorandum of understanding with the federal provider.

28 (4) The California Conservation Corps or local conservation
29 corps certified by the California Conservation Corps pursuant to
30 ~~Sections~~ *Section* 14507.5 or 14406 of the Public Resources Code.

31 (5) Instruction provided to juvenile court school pupils pursuant
32 to subdivision (b) of Section 42238.18 or pursuant to Section 1981
33 for individuals who are placed in a residential facility.